

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

**JOHN W. STONE OIL DISTRIBUTOR,
L.L.C.**

Plaintiff,

VERSUS

**M/V DANA K, her engines, tackle, furniture,
apparel, appurtenances, etc., *in rem*
*Defendant.***

CIVIL ACTION NO: 1:22cv151 LG-RPM

VERIFIED COMPLAINT

NOW INTO COURT, through undersigned counsel, comes Plaintiff, John W. Stone Oil Distributor, L.L.C. (“Stone Oil”), who files this Verified Complaint against the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183 (the “Vessel”) *in rem*, and in support thereof, respectfully represents as follow:

I. JURISDICTION AND VENUE

1.

This is an admiralty and maritime action to foreclose upon a maritime lien for necessities and other services provided to the Vessel within the jurisdiction of the United States of America and this Honorable Court pursuant to 28 U.S.C. § 1333 and within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and the Supplemental Rules Governing Certain Admiralty or Maritime Claims, specifically Supplemental Admiralty Rules C and E. This Court also has jurisdiction over this action pursuant to the Commercial Instruments and Maritime Liens Act (“CIMLA”), 46 U.S.C. § 31341, *et seq.*

2.

Venue is proper pursuant to 28 U.S.C. § 1391(b) and based on the presence of the Vessel in the District of this Court.

II. PARTIES

3.

At all relevant times, Stone Oil, was and is a Louisiana limited liability company with its principal place of business in Jefferson Parish, Louisiana and provides fuel, bunkers, lube, and other vessel necessities and services to vessels calling at its fuel docks at various locations in and near the Gulf of Mexico and Mississippi River.

4.

In accordance with Local Admiralty Rule A(6), please see the Verifying Declaration attached hereto and incorporated by reference as **Exhibit “A”**.

5.

The DANA K is a towing vessel, Official No. 501183, which is registered under the laws of the United States, as reflected in the United States Coast Guard Maritime Information Exchange Report attached hereto and incorporated by reference as **Exhibit “B”**. The Vessel is currently located within this District and within the jurisdiction of this Honorable Court, and more particularly at or near 16005 Race Track Road, Biloxi, Mississippi, 39532, in Jackson County, near an alcove at Avery Point: approximate GPS 30° 25’ 25.2” North / 88° 52’ 36.2” West.

III. SUPPLEMENTAL RULE C CLAIM

6.

Upon information and belief, at all times pertinent, the Vessel was operated by Dauphin Marine Transportation, LLC (“Dauphin Marine”) pursuant to a charterparty agreement between the vessel owner, H&K Marine Services LLC, and Dauphin Marine (“Charterparty Agreement”).

7.

Pursuant to requests by Dauphin Marine which included agreed pricing, Stone Oil provided fuel oil, specifically, “Diesel #2, Ultra Low S, Dyed”, and other vessel necessities to the DANA

K at various anchorages in Louisiana.

8.

Stone Oil provided the above-described necessities for the benefit of the Vessel, all of which was performed or provided by Stone Oil in a good and workmanlike manner and accepted and utilized by the Vessel and/or Dauphin Marine in its operation of the Vessel.

9.

The above-described necessary services Stone Oil provided to the Vessel constitutes necessities under CIMLA, 46 U.S.C. § 31341, *et seq.*

10.

Pursuant to the agreement and course of dealing between Stone Oil and Dauphin Marine, Stone Oil provided Dauphin Marine, the charterer of the Vessel, invoices evidencing in detail the various necessities provided to the Vessel described above, including the dates, vessel, locations, and quantity of necessities provided. Attached *in globo* as **Exhibit “C”** are true and correct copies of the invoice and delivery confirmation for Stone Oil Invoice Nos. BC93441, IC94024, BC96875, and CN98010 (collectively the “Invoices”). As established therein, the total principal amount for which the Vessel is liable to Stone Oil is \$106,564.28.

11.

The Invoices reflect necessities provided on the order of or for the benefit of the Vessel and/or Dauphin Marine for its operation of the Vessel. The charges shown in the Invoices were specifically requested and agreed to by the Vessel and Dauphin Marine, and are fair and reasonable for the necessities provided to the Vessel and Dauphin Marine for its operation of the Vessel.

12.

At no time whatsoever did Dauphin Marine inform Stone Oil that it was merely an agent for a disclosed principal or that Dauphin Marine was not financially responsible for the services performed by Stone Oil.

13.

Despite amicable demand, Dauphin Marine and the Vessel have failed to make full payment for the necessities provided by Stone Oil as reflected in the Invoices, Exhibit “C”, of which \$106,564.28 remains past due and owing to Stone Oil. (*See* Exhibit “A”).

14.

The breach of the contracts for the necessities provided by Stone Oil give rise to maritime liens against the Vessel under the general maritime law and CIMLA, 46 U.S.C. § 31341, *et seq.*, entitling Stone Oil to have the Vessel arrested and sold to satisfy the debt pursuant to Rules C and E of the Supplemental Rules for Certain Admiralty or Maritime Claims of the Federal Rules of Civil Procedure.

15.

Stone Oil thus has a maritime lien against the Vessel for the unpaid balances owed to Stone Oil, together with judicial interest, attorney’s fees, costs, all judicial expenses, *custodia legis* expenses, and any other recoverable damages.

16.

In accordance with the applicable Local Admiralty Rules, Stone Oil agrees to hold harmless and indemnify the United States Marshal and all of its deputies from any and all liability as a result of arresting the Vessel.

WHEREFORE, John W. Stone Oil Distributor, L.L.C. prays that the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183, be cited to appear and answer the Verified Complaint and:

1. That this Verified Complaint be deemed good and sufficient;
2. That process, according to the rules and practices of this Court in causes of admiralty and maritime jurisdiction, particularly Supplemental Rules C and E along with Local Admiralty Rules C and E, issue against the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183, *in rem*;
3. That, pursuant to Supplemental Admiralty Rule C and Local Admiralty Rule C, this Court issue an Order directing the Clerk to issue a Warrant for Arrest of Vessel, directing the United States Marshal to arrest the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183;
4. That the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183, be condemned and sold free and clear of all liens and encumbrances to pay John W. Stone Oil Distributor, L.L.C.'s claim, and that all persons claiming an interest in same be cited to appear, and, pursuant to the Federal Rules of Civil Procedure, answer the allegations in the Verified Complaint;
5. That judgment be entered in favor of John W. Stone Oil Distributor, L.L.C. against the M/V DANA K, her engines, tackle, furniture, apparel, appurtenances, etc., Official No. 501183, *in rem*, for the amounts due and owing of the principal amount of \$106,564.28 together with costs, expenses, interest, and attorney's fees as set forth above; and
6. That this Court grant John W. Stone Oil Distributor, L.L.C. such other and further relief which it deems just and proper.

Respectfully submitted,

/s/ Aaron B. Greenbaum

Aaron B. Greenbaum (MS Bar #105190)

Jacques P. DeGruy (LA Bar #29144)*

**To Seek Admission Pro-Hac Vice*

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